

OGC 72-0490

4 April 1972

*Per Trial
Order H 2*

MEMORANDUM FOR: Deputy Director for Intelligence
Deputy Director for Plans
Deputy Director for Science and Technology
Deputy Director for Support
Inspector General
Director of National Estimates
Director of Planning, Programming and Budgeting

SUBJECT: U. S. v. International Business Machines Corporation (69 Civ. 200 S.D.N.Y.)

REFERENCE: Memo fr Chairman, IP Board, to Directorate
IPC's, Subj.: U. S. v. IBM, dtd 17 Mar 72

1. In the subject case, the Government charges IBM with monopolization or attempted monopolization of the general purpose digital computer in violation of the Sherman Act. At the request of defendant's counsel, the Court has ordered the United States to produce certain documentation to be inspected by them. This Agency is among the several agencies that are subject to the order.

2. After discussing this matter with the Department of Justice, at which time it was pointed out that compliance might infringe on certain statutory exemptions granted to the Agency by law, it has been determined that a search for the documentation covered by the order must be undertaken. Justice has been advised, however, that we must reserve judgment regarding what documents can be made available for inspection by counsel and under what conditions.

3. Attached are three schedules that have been prepared by Justice in accordance with the Court order. Schedule 1 (Tab A) sets forth a list of instructions. Schedule 2 (Tab B) describes the documentation covered by the search. Schedule 3 (Tab C) identifies the

various agencies subject to the order. You will note that the documentation sought covers the period 1 January 1961 to 1 January 1972, and that the participating agencies must have completed this search by 15 April 1972. Accordingly, it is requested that a search be undertaken immediately of the appropriate active files in the Headquarters area. As indicated below, a survey is to be made of the inactive files maintained by the Records Center.

4. The active files in the Headquarters area are to be physically searched. Documents found responsive to Tab B are to be withdrawn from the file and separated into three categories: (a) unclassified, (b) third party proprietary data, and (c) classified. All classified data will be further separated into three subcategories: (a) secret and below, (b) top secret, and (c) codeword. The documents will then be listed by categories. Copies of such listings must reach the General Counsel prior to 15 April 1972. As regards documents containing proprietary data, arrangements will be made by Justice to have this material inspected by counsel under protective orders prohibiting further disclosures.

5. It is not necessary at this time to search for pertinent documentation stored at the Records Center. Justice has agreed to treat such materials as being "stored documents" as defined in paragraph 4 of Tab A. However, control schedules of documents retired to the Records Center must be reviewed and Records Center holdings which appear relevant to Tab B must be identified. Inactive files identified as potentially relevant will then be listed. This list should show the general nature of each file together with its overall classification and estimated volume. Copies of such listings must reach the General Counsel prior to 15 April 1972. No further action regarding inactive files is required at this time.



W. E. Colby

Executive Director-Comptroller

Attachments

Tabs A, B, & C

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